

Rejections under 35 USC 102

Claims 1 and 8 have been rejected by the Examiner as being anticipated by Modla (United States Patent No. 3,388,958). With regard to claim 1, the Examiner asserts that “Modla discloses a shaving gel applicator comprises of a hollow housing *adapted to be gripped by a human hand* wherein the housing has a closed distal end and a open proximal end, a brush base mounted in the open proximal end in closing relation to the open end, a brush of predetermined geometrical configuration mounted on the brush base and heating means positioned in heat transfer relation to the brush whereby heat generated by the heating means is transferred to the shave gel that is deposited on the brush *such that heat from the heating means is conducted radially outward to the brush and to shave gel thereon*.

Applicant respectfully submit that the applicator of Modla is not adapted to be gripped by a human hand. While it contains cutouts (Fig. 1, 44, for example), which enable the user to press an activator (Fig. 2, 32), the cutouts do not facilitate gripping, which actually takes place below the applicator i.e., on the can.

Applicants respectfully submit that the applicator of Modla does not have a closed distal end. Instead, the end is open, which enables it to attach a raised ring seam on the can.

Furthermore, the device of Modla heats shaving cream in a different manner than Applicant's device, which requires “that heat from the heating means be conducted radially outward to the brush and shave gel thereon.” The Modla device, in contrast heats the brush by heat conducted inwardly. Note that the housing (Fig. 2, 20), which is warmed by externally applied heat, surrounds the brush holder (Fig. 2, 29) which surrounds the bristles (30) and the shave gel. The shave gel and bristles are thus heated by heat conducted radially inward.

With regard to claim 8, depending from claim 1, as with claim 1, the housing of Modla's device is not *adapted to be gripped by a human hand*, it does not have a *closed distal end*, and the gel is heated by heat conducted inward rather than radially outward.

Furthermore, Claim 8 specifically requires that the applicator of claim 1 comprise an annular brush base having a heating disposed in the central aperture, radially inward of the brush such that heat is conducted radially outwardly. As indicated above, the device of Modla comprises a heat source which surrounds the brush, rather than centrally located. As a result, as already indicated, the heat in the device of Modla is conducted inward.

Applicants respectfully request reconsideration and withdrawal of the Examiner's rejections and a prompt allowance is respectfully solicited.